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THE STATE AND THE CITY

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An address delivered at the Fifty-first Convocation of The University of the State of New York, October 22, 1915

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THE STATE AND THE CITY

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I must speak on a highly technical subject which I have not myself chosen, and must give utterance to conclusions which have been forced upon me, which I have not arrived at willingly, and I am afraid that I shall certainly be a distributor of that kind of gloom of which the President of the University of Minnesota spoke so feelingly last night. I find myself envying those gentlemen who were assigned genteel subjects like The University and the State, or The Evils of Liberal Education in a State School System. One who talks of politics can hardly be genteel, and I am going to talk of politics. I shall not attempt to say any of those fine things that might be said of the relation of the state and the city with regard to many other features of very common life. I shall say something about the relation of the state and the city in regard to the schools.

Education is a state, not a national, affair in our country, for the reason that thirteen separate colonies which had each its own schools did not see fit, when they federated themselves into a Union, to entrust to it the responsibility of directing them. "The powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively or to the people." The control of education was one of these powers reserved to the states. This arrangement has grave defects. A republic can not exist unless its citizens are trained to discern their interests, to perform their duties, to protect their rights and to be intelligently solicitous about "everybody's business" which is what *res publica* means. The agency which is primarily responsible for fitting them for their democratic life is the public school. Through it our country continually creates itself and upon it its well-being depends. But the nation has no authority to control this source of its own being. While it is of the gravest concern to each of us with what degree of devotion the schools are urged forward to their work in the

several states, as citizens we have no direct control over education save in one of them. Though education is a supreme interest to the nation, in its educational affairs each state is supreme. The result is a coat of many colors. In some states the public schools are in the foreground of everybody's thought; in others they lead a half-starved existence, being tolerated rather than supported. Some commonwealths magnify their educational administration, take pride in their state courses of study, in their good schoolhouses, in their plans for supervision, in the adequate compensation of their teachers, in their well-enforced attendance laws and every feature of care with which they strive to bring up the young. Others take comparatively little interest in these things; underpay their teachers, gather their children together in dilapidated buildings, administer their schools badly, take little thought for courses of study, make no provision for real supervision, have no compulsory attendance law, and keep their schools in session for altogether too few days in the year.

Some of us think that public education is an interest of such importance to our country as a whole that it should be encouraged and supported by the entire energy and resources of the nation. We think that if the national government had a minimum degree of responsibility for education in each state that the progress which the states which lead in education make, could be shared by all. We think that education is one of the supreme concerns of this nation; that the state, far from being too large a unit and too great a power to prevent the evils of localism, and consolidate educational gains, is indeed too small a unit. We think that an integrating, not a disintegrating, of educational forces is called for. We are not unmindful of the dangers of too great a degree of centralization. We do not want the nation to conduct the schools but we do want it to put its hand to the plough, to lend its encouragement, the criticism of its perspective, the expert intelligence which it can summon, and perhaps even a measure of financial aid.

It is not clear that this change, desirable as it seems, can be brought about in the immediate or even in the remote future.

Tradition opposes it and the doctrine of state rights blocks its path. But every reason which can be assigned as requiring this greater degree of organization in school affairs is a reason for preserving the effective organization which we already have. And the respect for tradition which preserves what is now done from improvement should with at least equal insistence preserve it against innovations which portend disaster.

Ever since the year 1812 public education in New York has been conducted as a state affair. Our question is, Should it continue to be a state affair or should it become a municipal affair? Should the administration of the public schools in cities be entrusted to the mayor, the board of estimate and the common council and become part and parcel of the business transacted by the city government, taking pot luck with the rest, or should the public schools continue as they now are to be the special care of a separate department of government administered by a board of education chosen for the sole purpose of securing to the young their right to instruction? Those who would abolish the independent board of education and make the schools a city department seem to us to propose a change in administration so certain to bring harm to the schools as to menace their serviceableness.

The courts of New York State have repeatedly declared that "education is not a city, village, county, or town business" (15 Misc. 418). "It is the settled policy" of the State "that has prevailed since its organization of keeping the work of public education and the control and management of its schools separate and distinct from all other municipal interests and business by the selection of its own agents and clothing them with corporate powers to represent the schools, such as school districts and boards of education. . . ." (176 N. Y. 13). The entire territory of the State is organized for purposes of local government into counties, towns, and cities. The entire territory of the State is subdivided for purposes of education into school districts. In every county, town and city local officers administer the governmental affairs of their political subdivision of the State. In every school district educational officers administer the educational affairs of their

educational subdivision of the State. The entire State is thus divided up into two sets of smaller units for two quite different public purposes. It sometimes happens that the limits of the school district are coterminous with the limits of the city. In that case two local public corporations are to be found exercising authority within the same territory, the one charged with the responsibility of conducting the local government of that territory, the other with responsibility for conducting public schools.

As we have seen, the public schools of every locality are a part of the State school system, not local schools. The officers who administer and supervise them are State, not local officers. The State supervision and control of education is conducted by a State Department of Education which is under the legislative direction of the Regents and the executive direction of the Commissioner of Education. The Commissioner is required to enforce all general and special laws relating to the educational system of the State. This separation of school affairs from local governmental affairs and agencies has commended itself to each succeeding generation of her citizens as a wise and necessary provision for the safeguarding of the interests of her children. The Court of Appeals in one of its decisions takes pains to point out the evil consequences which would follow if the board of education were " a mere city agency. . . . Public education then becomes a city function, exposed to the taint of current municipal politics and to any and every mismanagement that may prevail in city departments." Governor Hughes, in his message of May 29, 1907, vetoing the equal salary bill, referred to the legal status of the board of education of New York City as follows: "Apart from the power of the mayor to appoint and remove, as stated, and the duty of the city to supply the funds required, the board of education exercises its powers independently. It is not subject to control by the city authorities. There is no contract or official relation between the teachers and the city. The city can not be sued upon the contracts made by the board. This results, as the Court of Appeals has said, from 'The settled policy of the State, from an early date, to divorce the business

of public education from all other municipal interests and business, and from the creating of the board as a corporate body to conduct a system of public education in a designated division of the State, and manage and control the schools therein.' "

The State of New York since the beginning has stood for a larger measure of centralization in administration than have its immediate neighbors. The state of Massachusetts inherited the decentralized government of the town system from the Massachusetts Bay Colony. A long and very unsuccessful experiment was made there in early days in school administration by the selectmen. The school committee method of administering public education in the towns was adopted as a great improvement upon allowing the selectmen to control them. Unfortunately, no strong coordinating agency was created. The school committee is still the victim of the town government in many localities. The wealth of the State is not taxed to equalize educational opportunities. Throughout the State towns with a high assessment roll pay relatively a low rate for schools. Some towns with a low assessment roll pay a low rate, some a high rate. Teachers' salaries vary greatly. The poorer communities can not hold strong teachers when they get them. Buildings and equipment vary greatly. One town may be famous for its good schools, its neighbor may have very poor ones. Public education is not upheld and urged forward by the energy and resources of the state. Localism rules and local political conditions make of the schools whatever they want them to be. To escape from these difficulties when the city of Boston adopted a new charter it made its school committee an entirely independent board, not subject to control, direct or indirect, by any other city authority, except that its appropriations are submitted to the mayor for approval, and in case of a veto, must be passed by a two-thirds vote of the board. Yet even this slight responsibility for the schools on the part of the mayor seems to have been a mistake for it gives the mayor a claim to proprietary rights in the school system which it was the intention of the makers of the charter to prevent.

When Pennsylvania adopted its new school code in 1911 her

people made the school boards of cities not only governing bodies independent of the city hall, but independent tax-levying and bond-issuing bodies. Municipal governments of cities, towns, or villages have nothing whatsoever to do with the school government in the state of Missouri. Boards of education are bodies corporate for the supervision and government of the public schools with power to loan funds and levy taxes in that state. A similar administrative freedom in school affairs obtains in a number of cities which have a reputation for the high character of their schools. Among them are Cleveland, Cincinnati, Milwaukee, Seattle, Denver, Portland (Oregon), Columbus, Toledo, Los Angeles.

Schools have been administered in so many ways in this country and with such varying results that experience has at least taught us some things not to do if we would have them successful. One of these things is to make them a prey to a city administration. One who has gone up to a city hall year after year to request the permission of a city government that the schools be allowed to continue in being for another ten months and that sufficient public money be apportioned to maintain them and has entered their claim there in competition with the claims of the street department, the fire department, the health department, and the police department, and been refused while they were not, because they were voting departments and the school department being manned by women was not a voting department, is in a position to appreciate what the Court of Appeals meant when it said that if public education were a city function it would be "exposed to the taint of current municipal politics and to any and every mismanagement that may prevail in city departments."

Yet in spite of the long record of disaster to the children of the towns in which the control of public education has been entrusted to the untender mercies of the city hall, a persistent campaign is being waged by certain doctrinaire authorities on municipal affairs to make the public schools come under the city government. These men are commonly quoted as experts on administration though for the most part they have not qualified

by administering anything and in most cases have not even thought seriously enough about school administration to inform themselves concerning either its problems or the reasons why the state has a policy of separating its school affairs from all other municipal interests and business. Their formula runs to the effect that the public activities of the city must be unified and must be directed by one central authority, the mayor and the board of estimate, or if there is no board of estimate, the mayor and the council. The chief function of this centralized municipal government is to shape the policies of the city, to adopt a budget apportioning to each department the money which the central authority has decided that it needs and then to see that it spends this money in ways which meet the approval of the central authority. It is not claimed for this scheme of municipal reform that the men who are responsible for keeping the city's streets in order, or safeguarding its health, or protecting it from fire, or for policing it, will determine what the work of their several departments requires. It is claimed that certain officers whose chief function is to count the cost and who are several stages removed from a first-hand knowledge of the necessities which the work of the departments entails, should be in control. The heads of the several departments attain a reputation for doing the specialized work which they perform. The way the members of the council, the board of estimate or the mayor commend themselves to their constituents is by getting a reputation for keeping taxes down. When they seek reelection and attempt to give an account of their stewardship it almost always takes that form. I have never known a city official to make a campaign for reelection on the score that he had made taxes higher because his conception of the duty of his office was that it had been created to do a certain work, that he had assumed that the people stood ready to pay for the performance of that work and in this faith he had performed it to the utmost of his ability.

There can not be any question that government exists to do the public work which must be done. It is not primarily a tax-inhibiting device. It exists to invest the people's money in the

public service which they require. It is the requirements of the public work, not the protection of property against taxation, which must determine the nature of our governmental organization. Shall the schools be directed by city comptrollers, city auditors and boards of estimate whose chief function it seems to be to glorify themselves by making arbitrary excisions from the estimates submitted by the responsible workers in the several departments, or shall a committee responsible to the people for the conduct of the schools be answerable for what is done in them? Whenever the organizing principle is something other than the work to be done, that work passes from the focus of attention and the rival consideration defeats its claims. Our systems of schools should not be administered with an eye single to the demands of a staff of bookkeepers nor of a body of officers whose prime function it is to seek the favor of the taxpayers by keeping their allowance of public money low. In creating them the people have something else in mind than that they shall be conducted cheaply.

A great many cities have sought to put the control of the purse in the keeping of the men who do the work of the several departments. They have eliminated as supernumerary those officers whose chief function it was to regulate what they were not directly responsible for and to determine at second-hand the conditions which should govern the work which they did not know by first-hand contact. They have organized commissions made up of the responsible heads of the several departments. This method of governing cities is relatively new, "but," says Professor Munro, "the real renaissance in American city government has come during the last ten or twelve years, and may be said to have begun with the Galveston experiment of 1901, although somewhat connected with the general movement for the concentration of power in the mayor." It is not generally known that after their city had been in large part destroyed by the great flood the people of Galveston were compelled to devise a more efficient government than the old-fashioned one which had served them so poorly. And since at the same time that the

city government had served them so badly their board of education had served them well, they took it for a model and formed a committee somewhat similar to the school board to administer their city affairs.

In some cities the commissioner of education sits with the commissioner of public works, the commissioner of health, the commissioner of fire protection and the other commissioners who make up the governing board to determine what share of the public money shall be allotted for the maintenance of the service departments whose work they severally conduct. The objection to this arrangement is by no means so serious as it is to school administration by city authorities who are primarily fiscal agents. Since the commissioners are heads of the several departments they are not a fifth wheel to the coach; they know the necessities of the service they are attempting to render, each in his own department, and can mentally put themselves in the place of their fellow commissioners and understand their needs. But even so there are insurmountable objections even to this pooling of the interests of public education with the interests of city administration. There is an old saying which advises us not to put all our eggs in one basket. Our government is a government of checks and balances. We are told that there has been too much checking and balancing in the past, but even if that is so it is not clear that checks and balances should be entirely done away with. If we entrust all our public interests to the city administration, if we ask it to look after all that concerns the children as well as all that concerns adults also and it fails to do its duty, we are without a corrective and a remedy. The school seems to have been intended to renew the government when it is defective rather than to rise or fall with it. It must be insulated from "the taint of current municipal politics and business." I am not one of those who think that any form of public business can be taken out of politics. As long as education is a public affair it must be a political affair for public and politic are synonymous; but it can and must be removed from partisanship and the scheming and plotting and trading which characterize

city hall government. I need not remind you that some city administrations try to annex the schools in order to vote the janitors en masse. That others try to get control of them in order to appoint teachers upon a patronage basis, that others look with envy upon the right of the board of education to expend the large sums which it handles for school buildings. But perhaps the chief reason of all which prompts a city administration to usurp the control of the schools even when the law says quite clearly that the board of education shall direct them, is the immense accession of importance which it thereby attains both in its own and in the public eye. We are each of us so set up when we are sent into the world that we magnify our callings and aggrandize our power. The city administration is an acquisitive animal; if it has any responsibility at all for the schools it will soon be found in complete control of them. My chief objection to the several city administrations which I have known rather intimately and which I think are somewhat typical is that though they are creations of law they make the law "a scrap of paper."

There is a very illuminating footnote in the Goodnow-Howe report on school conditions in New York City. It reads: "Despite the fact that the board of estimate and apportionment has asserted the right to segregate items of the annual budgetary (general and special funds) allowances and corporate stock authorizations, and the board of education has consistently questioned the validity of this claim, although it has conformed to such segregation except in the case of the general fund, no decision of the corporation counsel was requested until 1913." Parenthetically, it still segregates the general fund though it has been told by its legal adviser that this is contrary to law. Through its control of the school money it assumes to say what activities shall be carried on, that is, to administer and direct the schools even though the law says specifically that the board of education shall administer them. The power of the purse is the power to control and city officials who have it go to great lengths to make the board of education do their bidding. I remember that while I was

trying to superintend the schools in a large city in a state in which education is a state affair, the city authorities, having been warned to keep their hands off when they were trying to subvert the schools to their partisan purposes, sent an emissary to the office of the board of education to say that "if the board did not make its peace with the city council it would not get a ——— cent of money from it to run the schools next year."

A very serious objection to city government control of education is that it does not conserve the human relations which are essential to the well-being of a school system. For example, if the board of education adopts a salary schedule, a scheme of promotion or a pension system, it knows that all the teachers in its staff quite properly think of themselves as having vested rights under that arrangement, and since schools exist for the sake of teaching and teaching depends not so much upon the physical presence of the teacher as upon her physical presence in a certain state of mind, and that unless everything that is possible is done by her employer to make her feel at one with her work, that work will inevitably suffer. The board of education knows that it must keep its contracts and meet its obligations. But the board of estimate and the city council do not seem to realize the importance of conserving this human element and reckoning with these intangible forces; they ride over them ruthlessly.

But I was saying that a commissioner of education sitting with the other city commissioners would not be able to administer the schools by any means so well as a board of education wholly independent of the city hall can and does administer them. My reason for this conviction is not wholly that school affairs will under this arrangement become a part of current municipal politics, but also that by this arrangement two public concerns of a radically different nature which call for different types of consideration and, I may say, different kinds of statesmen to handle them, are brought together and treated as though they were parts of one and the same kind of public business. Superintendent Soldan used to insist that there is a great difference between government and education, that they are two things and must be kept apart. I am certain that he was right.

Our forefathers believed that the school must be a preferred creditor of government, that it must have special consideration and be attended by a greater degree of solicitude than the other departments of government. They gave it an autonomous existence and a legislative and executive of its own. Why? Because they believed that it should not be left to share alike with the other departments of government but that its interests called for special protection and a peculiar championship of its claims. Suppose we try to think of the school as a city department. It will be one among several. The men who manage them will have a thousand matters pressing upon them. They will fling them off as fast as they can. It will seem to them that those which press most immediately must come first and those which seem to press most immediately are the affairs of adults. There must be a good water supply or the death rate from typhoid will go up; there must be adequate fire protection or the city will burn down; there must be sufficient police protection or the citizens will be robbed and killed; there must be well-paved streets or those who own automobiles will make an outcry. But if there are not good schools nobody dies, the city is not burned down, few folks note it and no one makes an outcry. Why? Because the results of miseducation are not immediately discernible. When these other things are insufficiently supported, the visible results which begin to pile up make that fact known at once. When education is not adequately provided that fact may be concealed from the public at large and all but the most discerning for twenty or thirty years. It requires a much rarer power to image consequences of miseducation in the future than to image and anticipate the consequences of not caring for the water supply, the system of fire protection and the streets. And when the claims of education are pooled with these interests and their rival claims are presented to the mind of the typical city administrator, he is almost never able to discern and attach the same importance to consequences that are sure to follow from his acts twenty or thirty years ahead as he does to those that stare him in the face. The administration of educational affairs and the shaping

of educational policies calls for a special degree of insight and more prolonged and thoughful deliberation than the management of the tangible interests of cities. It presents another order of problems. It deals in the futures of children, in the conditions of our country in the next generation. To those who are pressed by immediate necessities it seems to be something which can wait or can take what is left when they are provided for. But to more discerning minds it is the opposite of this which is true.

There have been great defects in municipal government in our country. Not infrequently have city administrations been corrupt; but school boards have had a remarkably clean record and on the whole the community is able to command a much higher order of talent and statesmanship for its school board than for its city government. It will not do to say that city government is better now than ever before and is worthy to be entrusted with this additional responsibility. It may sink back into its old indifference to both honesty and efficiency. It has not yet completely proved its trustworthiness.

We hear a great deal of home rule for cities these days. It is not necessary to consolidate the independent school board with the city government to provide home rule in education. Home rule in education does not mean city hall control of the schools. The communities of the state have always selected their own boards of education and while it was a body of state officers which they selected it was and is more fully responsive to the community interests than its city hall officers.

If by home rule those who clamor for it mean the unification of all the agencies of government into a single city administration, it must be remembered that as the city is a part of the state and the state a part of the nation, there are certain public functions of the community which the nation insists that its agents shall perform and certain others which the state insists that its agents shall perform. The principle of home rule does not require that the city government take over these functions. Its people as one of the constituent communities of the nation and of the state perform them now. I can not see that there is any more

reason for a city administration to take over the management of the schools of the school district bounded by the city limits than to take over the management of the courts in the same territory. The school system is of more than purely local concern. It is a matter of as vital moment to the rest of the state how the municipality brings up the future citizens of the state as how it proceeds to stamp out an epidemic or to punish offenses against the general laws. And as there can not be any such thing as complete home rule until the city withdraws from both the state and the nation and itself becomes an independent nation, just so there can be no complete unification of all public taxation or of all the public fiscal affairs which have to do with the people of that community as long as the nation taxes them for its purposes and the state for its and the city for its. They are quite as much protected from unjust taxation at the hands of a board of education which itself fixes the amount of public money which is required to maintain the schools, within limits determined by the legislature, as they are if the legislature entrusts its power to raise the school moneys to a city government body which is in the nature of the case much more preoccupied with the immediate concerns of government than with the less obvious and more remote realities of education. I submit we have every reason to believe that the properly constituted independent board of education will not only be really more economical but vastly more wisely considerate of the work of maintaining the schools.

I have long believed that the reasons which these doctrinaire reformers of city government hold for their oft-reiterated contention that public education must become a municipal affair are not the reasons which they assign, which are so unconvincing and feeble, but reasons which they talk over among themselves but keep from the public. I was confirmed in this conviction last summer when I talked with one of them and at last learned what the real reason is. He said we know that education is a state affair and that it has flourished greatly while city affairs have by no means flourished as it has. It is true that ours is a government

of checks and balances but we have made too much of that doctrine. The trouble with our city government is that the public affairs of each community are so divided up that the city government has only a small part of the responsibility for the administration which goes in each locality. If it could be given more power it would become a more significant thing to the citizens and they would take a livelier interest in it. In most places they take a much livelier interest in their schools now than they take in the city administration. If they were combined and consolidated the people would be equally concerned about the combination. Therefore let us combine them so that the issues of city government may appeal strongly to every citizen.

This sounds very much like pulling the schools down that municipal administration may be built up. I was all the more discouraged when I found that my informant was very impatient about the enforcement of the law as it now is and seemed to think that this consolidation of public functions was so overwhelmingly important that it should be brought about by city governments without waiting for the law to legitimatize it. This enforced samaritanism on the part of our educational system should never be ordered by the legislature and assuredly it should not be tolerated until the laws order it. We must, I think, insist that the welfare of the young and the future of our nation require that school affairs be kept separate and apart from all other municipal interests and business. So long as the mayor or any other municipal authority appoints the members of the board of education, so long as the fiscal agents of the city have any part in determining the amount of public money which shall be allotted to the schools, or buy school sites, or have any more responsibility for approving plans for school buildings or erecting school buildings than they have over the private buildings of the city, so long as the city hires the janitors or acts as the paymaster for the board of education or holds the title to school property, the ends of systematic educational administration are defeated. If education is a state affair it must, in short, be completely separated from the city hall. There should be no delegation of agency whatever for the state in respect to schools to municipal authorities.

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